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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
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**AMENDMENT B TO DEVELOPMENT PERMIT DP 4899
RECREATIONAL LODGING FACILITY
BY SPECIAL EXCEPTION**

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by OPC, LLC for Amendment B to Development Permit DP 4899, finds the following facts:

1. Applicant: Paul and Mary Pono
dba OPC, LLC
139 Pica Road
Skowhegan, Maine 04976
2. Date of Completed Application: April 5, 2016
3. Location of Proposal: Bowtown Township, Somerset County
Plan 01, Lot 1.4
4. Zoning: (M-GN) General Development Subdistrict
(P-GP) Great Pond Protection Subdistrict
5. Lot Size: 7 acres (Owned)
6. Principal Buildings (Footprints / Floor Area total 4,972 sf):
 - Existing Lodge (with porch) (40 ft. L by 30 ft. W & 15 ft. by 20 ft. addition; 1,500 sf)
 - Existing Cabin (with porch) (28 ft. L by 22 ft. W; 616 sf)
 - Existing Cabin (15 ft. L by 12 ft. W; 180 sf)
 - With Proposed Additions (8 ft. by 10 ft. & 10 ft. by 10 ft; 180 sf)
 - Proposed Cabin (with porch) (28 ft. L by 16 ft. W & 6 ft. by 8 ft' addition; 496 sf)
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 - Proposed Cabin (with porch) (28 ft. L by 16 ft. W & 6 ft. by 8 ft' addition; 496 sf)
 - Proposed Cabin (with porch) (32 ft. L by 16 ft. W; 512 sf)
7. Accessory Structures:
 - Existing Shed (30 ft. L by 18 ft. W)
8. Sewage Disposal:
 - Existing Combined Subsurface Sewage Disposal System

Background

9. One July 5, 2011, the Commission approved Development Permit DP 4899 for the proposed reconstruction of the Historic Otter Pond Camps with some minor modifications to meet current standards and to be consistent with the Conservation Easement at North Otter Pond held by Maine Wilderness Watershed Trust, Inc. The facility was considered to be a commercial sporting camp that would offer accommodations and dining amenities to clients as part of their guide service operations. The approved principal structures are the same Lodge and Cabins listed in paragraph 7 above, which would be used solely for housing guests, dining amenities for guests or on-site residential use as part of the sporting camp complex. The proposed facility would be served by a spring fed water supply and serviced by a combined subsurface wastewater disposal system. The facility is located within a Great Pond Protection Subdistrict (P-GP). No construction was proposed within the portion of the lot located in the General Management Subdistrict (M-GN). The commercial sporting camp is located within an existing clearing that is approximately 40,000 square feet. All proposed reconstruction was located at least 100 feet from the normal high water mark of North Otter Pond and greater than 25 feet from the side and rear property lines. The proposed camps would be located greater than 50 feet from any road. The height of the proposed camps would not exceed the 20 foot height limitation imposed by the conservation easement.
10. On August 30, 2012, the Commission approved Amendment A to Development Permit DP 4899 for a Minor Change Request by the applicant to add a 15 ft. by 20 ft. addition to the Lodge.
11. By February 26, 2016, the applicant completed the reconstruction of the Lodge (with porch) (40 ft. L by 30 ft. W & 15 ft. by 20 ft. addition; 1,500 sf), a cabin (with porch) (28 ft. L by 22 ft. W; 616 sf) and the shed (30 ft. L by 18 ft. W) for the commercial sporting camp as authorized pursuant to Development Permit DP 4899 and as amended by Amendment A to Development Permit DP 4899. The 12 ft. by 15 ft. cabin existed and was not reconstructed. That cabin continues to be used by the applicant as staff housing during the reconstruction process. Development Permit DP 4899 and Amendment A expire on July 5, 2016, the construction authorized by these approvals could continue up until that date.
12. On February 26, 2016, the applicant submitted an application to complete the four 28 ft. long by 16 ft. wide cabins previously approved pursuant to Development Permit DP 4899 and Amendment A to Development Permit DP 4899. The new application also included the following proposed additions: four 6 ft. by 8 ft. bathrooms attached to back (non-waterfront side) of each of the four proposed cabins. During the review, the applicant requested the opportunity to amend the application to include additional development.
13. On April 5, 2016, the applicant submitted an additional permit fee with plans for the additional construction of a 32 ft. long by 16 ft. wide cabin for a resident guide and two additions to the existing cabin used for staff housing (10 ft. by 10 ft. to the back and 8 ft. by 10 ft. to the side). The amended permit application was considered complete on this date.

Proposal

14. The applicant proposes to to complete the four 28 ft. long by 16 ft. wide cabins previously approved pursuant to Development Permit DP 4899 and Amendment A to Development Permit DP 4899. The applicant also proposes four 6 ft. by 8 ft. bathrooms attached to back (non-waterfront side) of each of the four proposed cabins; and construction of a 32 ft. long by 16 ft. wide cabin for a resident guide and two additions to the existing 15 ft. long by 12 ft. wide cabin used for staff housing (10 ft. by 10 ft. to the back and 8 ft. by 10 ft. to the side).
15. The proposed recreational lodging facility would provide overnight accommodations and dining for guests, guides and staff. The primary recreational activities would be fishing, hunting and hiking. There are no retail sales, fuel sales or other recreational activities proposed at this time. The facility will have an on-site attendant and guide service.

16. The total floor area for the existing and proposed principal structures is approximately 4,972 square feet.
17. The applicants request the Commission to categorize their existing commercial sporting camp as a Level B Recreational Lodging Facility. The applicants also request to maintain their status as a commercial sporting camp.

Review Criteria

18. Under the provisions of Section 10.02 #168 of the Commission's Land Use Districts and Standards, **Recreational Lodging Facilities** are defined as: Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure providing guest services, such as dining, gathering places, retail shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel. For the purposes of Land Use Planning Commission rules, recreational lodging facilities are divided into five levels: [Levels A through E] ...

Level B Facilities have minor impacts on existing resources within the development site and surrounding areas. Level B Facilities are specifically designated by Section 10.27,Q,1.

23. Under provisions of Section 10.27,Q of the Commission's Land Use Districts and Standards, All new recreational lodging facilities or substantial improvements to existing recreational lodging facilities, must be developed in conformance with the standards of this section or in accordance with other applicable provisions of this Chapter. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources shall apply.
24. Under provisions of 10.27,Q,1, Recreational Lodging Categories of the Commission's Land Use Districts and Standards, facilities in existence prior to July 1, 2013 may be categorized without regard to footprint of clearing.
25. Under provisions of 10.27,Q,1,Table A of the Commission's Land Use Districts and Standards, Recreational Lodging Facilities Level B may contain the following:
 - On-site recreation activities, features, and/or services that produce low noise and odor and are mostly screened (as defined at 10.02,167);
 - Public utilities and indoor plumbing;
 - Up to 8,000 sq. ft. of principal buildings;
 - Up to 36,000 sq. ft. of clearing within 250 of certain waters;

- Up to 100 sq. ft. of retail or not more than 5% of floor area of principal buildings, whichever is larger;
 - Dining; fuel sales; and recreation activities, features, and services which are available to guests; and
 - Overnight occupancy for up to 100 persons.
24. Under provisions of Section 10.23,E,3,d,(2) of the Commission's Land Use Districts and Standards, **Great Pond Protection Subdistricts (P-GP), Special Exceptions:** The following uses may be allowed within P-GP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan: **Recreational Lodging Facilities, Level B.**
25. Under provisions of Section 10.26,D,1&2 of the Commission's Land Use Districts and Standards, all those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of at least 100 feet from the normal high water mark of a body of standing water 10 acres or greater, at least 50 feet from the traveled portion of all roadways and at least 15 feet from side and rear property lines. All other structures within the recreational lodging facility must be set back a minimum of at least 150 feet from the normal high water mark of a body of standing water 10 acres or greater, at least 75 feet from the traveled portion of all roadways and at least 25 feet from side and rear property lines, except as provided in Sections 10.26,G and 10.26,Q.
26. Under provisions of Section 10.26,F,2 of the Commission's Land Use Districts and Standards, structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater shall be no higher than 30 feet.
27. The facts are otherwise as represented in the application for Amendment B to Development Permit DP 4899, and supporting documents.

Review Comments

28. The Maine Wilderness Watershed Trust, holder of the Conservation Easement at North Otter Pond, commented on the original Development Permit DP 4899 and stated: There is nothing in the application that appears to be inconsistent with the conservation easement. As long as the proposed structures are setback 100' from the pond, the cumulative gross floor area for all buildings utilized for human habitation does not exceed 6,000 square feet, no single structure utilized for human habitation shall exceed 1,500 square feet, the maximum height, excluding chimneys does not exceed 20 feet and proper construction practices are followed.

Analysis and Discussion

29. The total gross floor area of principle buildings, as estimated by the applicant, would be less than 6,000 square feet after completion of the proposed construction. The proposed Lodge is a part of an existing pre-1971 operating commercial sporting camp facility known as Otter Pond Camps. It is located on North Otter Pond, by definition a Great Pond. The location of the existing and proposed structures are within the limits of existing clearing for the commercial sporting camp and would not require any additional clearing. The proposed structures would meet all the Commission's setbacks listed in Dimensional Standards and the proposed heights would not exceed 20 feet. Based on a review of current aerial photo maps on Google Earth, the limits of clearing along the shoreline and scattered mature trees within the maintained grounds of the facility would appear to provide reasonable visual screening from the lake, as viewed directly off

shore; and considerable screening as viewed from angles that are not directly offshore. The limits of existing clearing exceed the limits of Section 10.27, Q, Table A, but they have been in existence prior to July 1, 2013, so the Commission may categorize the facility without regard to the footprint of clearing. In this case, the shape of the cleared area and the location of the structures appear to be screened from view from most angles on the lake and the direct view appears to have mature trees scattered in such a manner as to provide limited visual screening to a traditional commercial sporting camp facility. Lodging will generate low noise and provide overnight accommodations to approximately 25 guests and staff, which is less than the 100 allowed (Section 10.27, Q, Table A). This Level B Recreational Lodging Facility is allowed upon issuance of a permit in the P-GP Subdistrict (Section 10.23, E,3,d,(2)).

Based upon the above Findings, the staff concludes that:

1. The proposal will meet the definition of a recreational lodging facility under the provisions of Section 10.02 of the Commission's Standards because the site and facility will:
 - a) be used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes;
 - b) primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based;
 - c) be served by an on-site attendant while guests are present; and
 - d) include or be similar to commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing.
2. In accordance with the provisions of Section 10.27, Q, 1, Table A, of the Commission's Standards, the site, including existing and proposed development constitutes a Level B Recreational Lodging Facility. Specifically, the continued use of the pre-1971 commercial sporting camp facility, as a recreational lodging facility meets all applicable standards for construction and is consistent with Table A Facility Level Determination, factors for a Level B Facility. The total floor area for all principal buildings upon completion is approximately 4,972 square feet, which is less than the maximum 8,000 square feet allowed for a Level B Facility and less than the 6,000 square feet allowed pursuant to the conservation easement. The recreational activities would be lodging and associated recreational activities within a commercial sporting camp. The total overnight occupancy would be less than the 100 maximum allowed in a Level B Facility.
3. The use is an allowed use by Special Exception in the Great Pond Protection (P-GP) Subdistrict. This finding is based on the historic use of this site as a traditional commercial sporting camp within the existing undeveloped area on North Otter Pond. The proposed Level B Facility is adequately buffered from other uses within the Subdistrict and is consistent with the traditional recreational uses, such as hunting and fishing that occur in this area of North Otter Pond. The limits of development allowed under the conservation easement are more stringent than the Commission's standards. Compliance with the terms and conditions of the conservation easement and conditions of this permit will meet the applicable policies of the Comprehensive Land Use Plan.

4. Based on the facts as presented and Chapter 10 Sections 10.11 and 10.26 of the Commission's Land Use Districts and Standards the current facility and proposal meets dimensional requirements.
5. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.


Therefore, the staff approves the application of Paul and Mary Pono dba OPC,LLC with the following conditions:

1. Notwithstanding the overnight occupancy limit stated in Section 10.27,Q,1, Table A, of the Commission's Standards, the overnight occupancy limit of this facility shall be no more than 25 persons until such time as the applicant requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that an overnight occupancy capacity of greater than 25 would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact of overnight occupancy greater than 25.
2. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
3. All those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of at least 100 feet from the normal high water mark of North Otter Pond, at least 50 feet from all roads and at least 15 feet from the property boundary lines. All other structures within the recreational lodging facility must be set back a minimum of at least 150 feet from the normal high water mark of North Otter Pond, at least 75 feet from all roads and at least 25 feet from the property boundary lines. The internal vehicle access way for the commercial sporting camp complex is not considered a road and does not require road setbacks.
4. The proposed structures shall not exceed 20 feet in height as required by the conservation easement.
5. Construction debris must not be disposed of in a wetland. All construction debris must be disposed in a proper manner, in compliance with applicable state and federal solid waste laws and rules.
6. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
7. Construction with heavy equipment shall occur during the time of year when roads and soils are reasonably stable and not saturated.

8. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.
9. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
10. Exterior finishes of all structures shall be non-reflective and natural colors to blend with the natural surroundings and minimize any adverse visual impacts. The permittee may plant native vegetation to help visually screen the facility from the adjacent water body and surrounding lands.
11. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 15th DAY OF APRIL, 2016.

for:  RODERICK J. FALLA
Nicholas D. Livesay, Executive Director